

ORDINANCE NO. 07-86

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW THE CONSTRUCTION OF A SINGLE-FAMILY HOME ON A SUBSTANDARD LOT (THE SOUTH 75 FEET OF LOT 4), HAVING A WIDTH OF 50 FEET, DEPTH OF 74.13 FEET AND A TOTAL AREA OF 3,706.5 SQUARE FEET, MORE OR LESS, WHERE 75 FEET IN WIDTH, 100 FEET IN DEPTH AND TOTAL AREA OF 7,500 SQUARE FEET ARE REQUIRED RESPECTIVELY; AND ALLOW THE EXISTING SINGLE-FAMILY RESIDENCE TO REMAIN ON A SUBSTANDARD LOT (THE SOUTH 75 FEET OF LOT 5), HAVING A WIDTH OF 50 FEET, A DEPTH OF 74.79 FEET, AND A TOTAL AREA OF 3,712.5 SQUARE FEET, WHERE 75 FEET IN WIDTH, 100 FEET IN DEPTH AND TOTAL AREA OF 7,500 SQUARE FEET ARE REQUIRED RESPECTIVELY, CONTRA TO HIALEAH CODE §§ 98-499 AND 98-348(a). **PROPERTY LOCATED AT 310 EAST 39 PLACE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City Council of the City of Hialeah, Florida at its regular meeting of August 28, 2007 directed the Law Department to provide this ordinance overriding the Planning and Zoning Board's recommendation of denial at its meeting of August 22, 2007.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby granted a variance permit to allow the construction of a single-family home on a substandard lot (the South 75 feet of Lot 4), having a width of 50 feet, depth of 74.13 feet and a total area of 3,706.5 square feet, more or less, where 75 feet in width, 100 feet in depth and total area of 7,500 square feet are required respectively; and allow the existing single-family residence to remain on a substandard lot (The South 75 feet of Lot 5), having a width of 50 feet, a depth of 74.79

feet, and a total area of 3,712.5 square feet, where 75 feet in width, 100 feet in depth and total area of 7,500 square feet are required respectively, contra to Hialeah Code §§ 98-499 and 98-348(a), which provide in pertinent part: "The minimum building side in the R-1 one-family district, shall be on lot or parcel of land containing at least 7,500 square feet. . . . Such parcels or lots shall have an average width of at least 75 feet and shall also have a minimum average depth of 100 feet." and " . . . No building permits shall be issued for the erection of future structures on existing legally divided parcels of unimproved land in R-1 . . . unless they shall . . . have an area of at least 6,480 square feet, " respectively. Property located at 310 East 39 Place, Hialeah, Miami-Dade County, Florida, zoned R-1 (One Family District), and legally described as follows:

SOUTH 75 FEET OF LOTS 4 AND 5, BLOCK 5,  
COBO'S FRONTON SUBDIVISION NO. 2,  
ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 15, PAGE 9, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty

prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

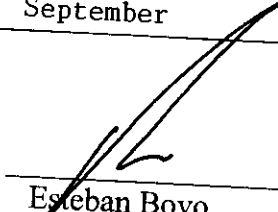
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 25<sup>th</sup> day of September, 2007.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Esteban Bovo  
Council President

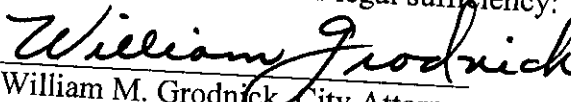
Attest:

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Rafael E. Granado, City Clerk

**MAYOR'S SIGNATURE WITHHELD**  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

Ordinance was passed and adopted by the Hialeah City Council on September 25, 2007 and became effective October 9, 2007 without Mayor's signature.

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".

**Julio Robaina**  
Mayor

**Esteban Bovo**  
Council President

**Carlos Hernandez**  
Council Vice President



Council Members

**Jose F. Caragol**  
**Vivian Casals-Muñoz**  
**Luis Gonzalez**  
**Cindy Miel**  
**Jose Yedra**

# City of Hialeah

October 9, 2007

Dear Members of the Hialeah City Council:

1. I have allowed Hialeah, Fla., Ordinance 07-86 to become effective today, without my signature. This ordinance granted a variance permit to allow the construction of a new residence on a substandard lot with associated variances and to allow the existing home located at 310 East 39 Place, Hialeah, Florida, to remain on a substandard lot with associated variances.
2. I had reservations concerning this ordinance, but was constrained by the fact that the City Council pursuant to Hialeah, Fla., Ordinance 06-23 (Apr. 25, 2006), without my signature, approved a similar request for lots that are located immediately to the south of the lots considered by this ordinance.
3. I would like to express my firm view that I will look with disfavor on any future applications for the construction of new homes on substandard lots in this neighborhood. My decision to allow this ordinance shall not set a precedent for future applications.
4. In addition, please consider this letter notification to the Council and the property owner that in development of the southern lots located at 295 East 39 Street, Hialeah, Florida, the Fire Department, in order to comply with fire code regulations, required the construction of a fire hydrant. It should be expected that the Fire Department will also require a fire hydrant and connecting water lines for the development of the subject property.
5. The City has recently reconstructed the public right-of-way, East 39 Place, in this area and will not participate in the cost of the construction of the fire hydrant and any other required improvements. Today, municipal budgets have been sharply curtailed by tax reform legislation. Accordingly, the City is not in a financial position to underwrite or share in any cost of breaking up a newly constructed right-of-way to accommodate an individual private property owner to construct a home on a substandard lot.
6. Therefore, I allow Hialeah, Fla., Ordinance 07-86 to become law without my signature.

Sincerely yours,

**Julio Robaina**  
Mayor

**Raul L. Martinez Government Center**  
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[www.hialeahfl.gov](http://www.hialeahfl.gov)